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ABSTRACT

This report summarizes legislative activities in states that enacted bills and resolutions relating to Native Americans in 1991. Conflicts between states and the Indian tribes within their borders were the subject of significant legislation in 1991. In all, 220 bills and resolutions were introduced in state legislatures; 77 passed and 20 are still pending. The bills address a variety of issues and resolutions, including repatriation of Indian burial remains, gaming, taxation, education, the use of peyote in Indian religious ceremonies, organization of Indian commissions and state-tribal committees, water rights, law enforcement, fishing and hunting, land development, housing, economic development, health care, and Indian crafts. Several factors are commanding increasing legislative attention to Native American affairs: (1) the tendency of the Supreme Court in recent years to render decisions unfavorable to tribal interests; (2) an increased number of Native American state legislators; (3) the delegation by Congress of federal regulatory activities to the tribes; and (4) a heightened awareness of the contribution of Native Americans and greater assertiveness by Native Americans to exercise self-determination. Included are a state-by-state description of legislative activity and the number of Native American legislators in each state. The appendix contains summaries of all enacted and pending legislation, by state. (KS)

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1991 STATE LEGISLATION RELATING TO NATIVE AMERICANS

by

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1991 State Legislation Relating to Native Americans

Conflicts between states and the Indian tribes within their borders were the subject of significant legislation in 1991. States authorized new cooperative agreements between agencies and tribes in a variety of policy areas, including law enforcement, hazardous and solid waste disposal, allocation of tax revenues, economic development, and allocation of water rights. In all, 220 bills and resolutions were introduced in state legislatures in 1991; 77 passed and 20 are still pending. The bills address a diverse variety of issues and resolutions, including repatriation of Indian burial remains, gaming, taxation, education, the use of peyote in Indian religious ceremonies, organization of Indian commissions and state-tribal committees, water rights, law enforcement, fishing and hunting, land development, housing, economic development, health care and Indian crafts.

Native American affairs are commanding increasing legislative attention due to several factors. One is the tendency of the Supreme Court in recent years to render decisions unfavorable to tribal interests. An example is the *Duro vs. Reina* case, in which the Court ruled that Indian tribes did not have misdemeanor criminal jurisdiction over non-member Indians. Several states, including Montana, Oklahoma and North Dakota, passed resolutions urging Congress to overturn this ruling, which it did in October 1991. Unfavorable court decisions have compelled tribes to turn to the political process and try to influence legislation at the state and federal levels.

Another contributing factor is the increased number of state legislators of Native American descent. At least 30 Native Americans hold office in 13 states (Alaska, Arizona, Georgia, Maine, Minnesota, Montana, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Dakota and Wyoming). These legislators introduced the vast majority of bills and resolutions related to Indian affairs. To increase their visibility and effectiveness in state politics, some of these legislators formed the National Council of Native American Legislators in June 1991.

A third contributing element is the role of the federal government. Congress has explicitly given Indian tribal governments the authority to receive delegation to implement federal regulatory programs, which often puts tribes at odds with state regulators who fear weak enforcement by the tribal authorities. Likewise, the long history of inconsistent federal policy toward Indian people has left a patchwork of laws and treaties that have caused tension between states and tribes over issues of jurisdiction and sovereignty. State legislatures are often the arena for resolution of these disputes.

A final factor (there are no doubt others) is a heightened awareness of the contributions that Native Americans have made over the centuries to the United States, coupled with a greater assertiveness on the part of American Indian tribes to exercise their legitimate right to self-determination. A growing sense is emerging among enlightened policymakers that Indian tribes deserve respect as legitimate partners in the governance of America.

This report summarizes legislative activities in states that enacted bills and resolutions relating to Native Americans. A state-by-state description follows. The Appendix contains summaries of all enacted and pending legislation, by state.

Alaska

A bill extending the deadline for certain provisions of state law that governs the inheritance and transfer of stock in corporations set up under the Alaska Native Claims Settlement Act was enacted. Seven other bills failed, including one to require a curriculum for native language education. Alaska has three senators and six representatives of Native Alaskan heritage serving in the Legislature.

Arizona
Arizona considered 15 bills and resolutions on Indian affairs. The seven that passed include new authorization for Arizona tribes to receive state loans for wastewater treatment facilities, authorization for county-tribal agreements for joint exercise of county land use regulations, and deletion of a state certification requirement for tribal peace officers who meet certain standards. Resolutions passed urging Congress to protect tribal religious use of peyote, overturn the effects of *Duro vs. Reina*, maintain current levels of health service for Indians, and to erect a monument honoring Native Americans. Three Native Americans serve in the Arizona Legislature one senator and two representatives.

California
Seven pieces of legislation were examined by California lawmakers. An important compromise was reached between the state and tribes seeking to site hazardous waste or solid waste treatment and disposal facilities on tribal lands. AB 240 requires that the California secretary for Environmental Protection convene negotiations, on request of a tribe that is considering a proposal to construct a hazardous waste or solid waste facility, in order to reach a cooperative agreement to regulate the facility. The agreement must contain provisions that are functionally equivalent to those provided under applicable state law. Requirements are set forth for the approval and enforcement of such cooperative agreements. The bill seeks to avoid jurisdictional conflicts by giving tribes a chance to adopt regulations that are "at least as protective of public health and safety and the environment as provided under state law."

California also passed a law requiring that all Native American human remains and associated grave artifacts be repatriated. Notable legislation that died in committee would have created a nonvoting position in each house to be held by an indigenous California American Indian representative.

Georgia
A bill held over until the 1992 session would further protect human remains and burial objects through a variety of prohibitions. An Indian Burials Consultation Committee would be established to issue permits for appropriate disturbance of burial grounds of American Indians. Procedures are proposed to ensure compliance with permit requirements. One legislator of Native American heritage sits in the Georgia House of Representatives

Hawaii
Hawaii this session established a process for redressing the claims of individuals affected by the Hawaiian Home Lands Trust and the Native Hawaiian Public Trust. A claims panel was established to evaluate individual claims and issue an advisory opinion regarding such claims. The panel is responsible for disbursing any compensation awarded by the 1993 and 1994 Legislatures.

In addition, a law was passed to provide for repatriation of Native Hawaiian human remains and retrieval of such remains from the Smithsonian Institution and other federal museums. In all, seven of 12 bills and resolutions passed.

Idaho
Idaho asked a joint House-Senate committee to review Indian affairs and address important issues of state-tribal concern in a report to the 1992 session of the Legislature. Native Americans' sacramental use of peyote in religious rites was authorized in law, as was the right of enrolled Indian fisherman lawfully exercising their fishing rights to sell steelhead trout. The Fort Hall Indian Water Rights Agreement of 1990 was also ratified by the legislature.

Kansas
Pending for the 1992 session is legislation in the House Judiciary Committee to permit any recognized Indian nation to petition the Secretary of the Interior for retrocession of all or any part

of the federal criminal jurisdiction delegated to the state over certain criminal matters that occur on Indian land. The bill sets forth requirements for tribal assumption of jurisdiction.

Maine
Maine is unique among the states with its longstanding policy of tribal (nonvoting) representation in the House of Representatives by one member each of the Penobscot and Passamaquoddy tribes. The Legislature passed bills to lower license fees for high-stakes bingo in "Indian Territory," to enable Penobscot natural resources staff to make decisions regarding the use of "gill nets," and to extend reciprocity in certain judicial matters to the two tribes relative to activities of the state district court.

Legislation pending for the 1992 session would give the Penobscot Nation greater flexibility and power to manage land within the Penobscot Indian Territory. It would allow certain state review powers over Penobscot territory by the Maine Land Use Regulation Commission and provides for development of remedial measures in land use situations with adverse impacts.

Massachusetts
Two bills are pending in the Massachusetts General Court; one would create public housing authorities for tribes to carry out low-income housing projects and the other relates to fishing and hunting by members of Indian tribes.

Michigan
The Michigan Legislature adopted a resolution commemorating November 1991 as "American Indian Heritage Month."

Minnesota
HF 1125 enables the Mille Lacs Chippewa Band to conduct law enforcement on its original reservation if certain requirements such as tort liability and officer training are met. The bill also requires the band to enter into a mutual-aid cooperative agreement with the Mille Lacs county sheriff.

Nine other bills did not pass, including those dealing with educational assistance, Chippewa rice marketing, family preservation programs, composition of the state gaming negotiators' team, alcohol and drug abuse assistance program, and unemployment compensation. Minnesota has elected one Native American senator.

Mississippi
Mississippi added legislative members and a Department of Wildlife appointee to the Dancing Rabbit Creek Treaty Advisory Committee. Also, money was appropriated to the Department of Education for the Chickasaw cession counties for lands they lost through sale by the state. A bill to require consistency with the state capacity assurance plan for hazardous waste facility siting on Indian lands did not pass.

Montana
Montana, with three Native American legislators (one senator and two representatives), considered 31 bills and resolutions and adopted 23 of them. The Legislature ratified the water rights compact between the state and the Northern Cheyenne tribe. It also passed HB 1012, which requires negotiations between the state and tribal governments for collection of cigarette sales tax from non-Indian purchasers of cigarettes on Indian reservations. The goal is to avoid dual taxation through a revenue-sharing arrangement. Another bill, HB 819, promotes state-tribal cooperation in economic development through appointment of one tribal representative to the governor's Tourism Advisory Council. SB 428 provides for negotiation of cooperative agreements between the state and tribal governments for the allocation of motor fuel taxes to tribes that set tax rates

the same as the state's. An interim study of taxation issues is to be conducted by the Revenue Oversight Committee. (HJR 53)

Other enacted legislation includes funding to enhance the success of American Indians in higher education, new procedures for appropriate and respectful treatment of human remains, new rules governing imitation Indian arts and crafts, a monument at the state capitol honoring Native Americans, a voter referendum on of requiring the appointment of one Native American to the state Board of Regents, and hiring preferences for Indians for state projects on reservations.

Resolutions urged Congress to change the name of the Custer Battlefield to Little Bighorn National Monument, called for congressional reversal of the *Duro vs. Reina* ruling and recognized Native American contributions during the Quincentennial celebration.

Nebraska
The Unicameral Legislature changed the membership of the Commission on Indian Affairs and altered the per diem and term length. Pending for 1992 is funding for the Nebraska Indian Community College and legislation to authorize the governor to negotiate state-tribal compacts on gambling. Federal law requires such compacts when Class III gaming is undertaken by tribes.

Nevada
AB 507 allows Indian tribal governments to tax non-cigarette tobacco products and prohibits the state Department of Taxation from taxing the same products sold on an Indian reservation. Two resolutions passed, one commending Congress for temporarily overturning *Duro vs. Reina*, and another calling for the return of certain artifacts from the Museum of the American Indian in New York City.

Three bills that did not pass included one to allow tribes to tax motor fuels in lieu of state and local taxation another to authorize cooperative agreements between state agencies and Indian tribes on the regulation of hunting, fishing and water-based recreation; and a third to relinquish state claims to portions of the bed and banks of the Truckee River within the Pyramid Lake Indian Reservation, and to certain land under and surrounding Pyramid Lake.

New Jersey
A bill pending in the New Jersey Senate would create the New Jersey Commission on Indian Affairs.

New Mexico
Twenty-seven bills and resolutions were considered in New Mexico in 1991. However, only three became law. HB 595 appropriates $300,000 for the state to contract with the Institute of American Indian Arts to promote Indian arts and culture. HB 742 allows the state treasurer, if authorized by a joint powers agreement, to make short-term investments on behalf of Indian nations or tribes. SB 567 clarifies what are genuine Indian-made articles and makes other changes to the Indian Arts and Crafts Sales Act.

Legislation that did not pass addressed Indian tourism development, liquor control regulations, money for at-risk Navajo students, law enforcement funding assistance, corrections counseling, a study of revenues and services relative to Indians and Indian lands, educational opportunities, peyote usage in Indian religious rites, the impact of *Duro vs. Reina*, road construction for the Navajo Nation, a monument honoring Native American Vietnam veterans, and increased interstate and international trade for Indian tribes and pueblos. New Mexico has one Native American senator and six representatives.

New York
Native American affairs are addressed by 11 bills pending in the New York Legislature. Six of these are significant to state-tribal relations. A 4413 would set up an independent Office of Indian Relations to facilitate coordination of state programs that provide services to Indian people and to improve relations between the state and Indian nations and tribes. The governor of New York established by executive order an Office of Indian Affairs reporting to the governor with functions similar to those contained in A 4413. A 3737 would provide authority for the Shinnecock Tribe to enter into an agreement with a fire protection company in South Hampton. A 4789 allows enrolled members of an Indian tribe located wholly within the state to fish, hunt and trap off the reservation.

A 5021 authorizes the state, without admitting liability, to hold harmless from damages property owners who have lost property interest as a result of a successful claim of an Indian tribe. A 7468 establishes a process for reporting discovery of human remains and determining if they are of Native American origin. A 8497 provides funds for the Seneca Nation lease settlement for Salamanca.

North Carolina
Legislation was passed in North Carolina to add a member to the Commission on Indian Affairs from the Meherrin tribe. Also considered was a bill providing membership to the Eastern Band of Cherokee Indians on the Regional Solid Waste Management Authority and making tribes eligible for loans from the North Carolina Solid Waste Management Capital Projects Financing Authority.

North Dakota
The Legislature appropriated funds to the Indian Affairs Commission and, among other changes, gave the commission authority to encourage and propose agreements between the federal, state and local agencies and the several Indian tribal governments. Specifically authorized were state-tribal agreements to perform administrative services. Also passed was a resolution encouraging Congress to give Indian tribes jurisdiction over criminal misdemeanors of all Indians on Indian reservations (overturning *Duro vs. Reina*) and to review the Indian Civil Rights Act to ensure that the constitutional rights of all Indians are protected. North Dakota has a senator of Native American descent.

Oklahoma
Bills were enacted in Oklahoma to fund the Indian Affairs Commission and to establish procedures for officer designations for the Joint Committee on State-Tribal Relations. A resolution commended Congress for temporarily affirming that tribes do retain criminal misdemeanor jurisdiction over all Indians in Indian country. Bills that did not pass addressed religious use of peyote, Indian arts and crafts, and Native American tourism. One senator is an enrolled tribal member.

Oregon
Oregon appropriated funds for its Commission on Indian Services and increased the number of members from 12 to 13. Also enacted was HB 3039 that allows for an affirmative defense for the crime of manufacture, possession or delivery of peyote if used in bona fide religious practices. A bill calling for negotiations with the Confederated Tribes of the Umatilla Indian Reservation over upstream storage on the Umatilla River did not pass. One legislator of Native American descent serves in the Oregon General Assembly.

Pennsylvania
The Legislature passed a resolution to make the last week of August 1991 Native American Awareness Week.

Rhode Island

Rhode Island is examining two bills to authorize Indian housing authorities.

South Dakota
Three pieces of legislation passed in South Dakota during 1991. HB 1402 provides for special motor vehicle license plates to identify tribes located in the state. SB 262 gives authority to the State Department of Revenue to enter into cooperative agreements with Indian tribes for the collection of taxes and fees. SCR 13 declares the commitment of the Legislature to the reconciliation process between Indians and non-Indians. Two Native Americans serve in the South Dakota Legislature--one in each house.

Utah
The Division of Indian Affairs in the Department of Community and Economic Development was restructured. Also set up were the Utah Indian Cooperative Council and the Utah Dineh Committee. The Dineh Committee will direct expenditures of federal money received by the state on behalf of Navajo Indians living in San Juan County. The former Task Force on Indian Affairs was repealed.

Washington
Washington examined 12 bills and resolutions during the 1991 session, one of which passed. HB 1940 authorizes the appointment of a local Indian child welfare advisory committee to serve as the required citizen review board in foster care cases involving an Indian child. A bill pending for 1992 would revise the criteria for selecting recipients for the American Indian Endowed Scholarship and appropriates funds for the award. Legislation that did not pass concerned hunting and fishing privileges, legislative review of gaming compacts, water resource management and higher education. Also not passed was a bill providing for four non-voting Indian delegates in the state Legislature to represent tribes.

West Virginia
The Legislature passed a bill requiring the governor to declare the week before Thanksgiving as Native American Indian Heritage Week.

Wisconsin
Wisconsin considered a package of five bills relating to Native American affairs. Included in the package were bills to set up a comprehensive economic development program on Indian reservations, to acknowledge Indian sovereignty and to set up protocols for state-tribal interaction, to recognize the legitimacy of tribal court proceedings and the acts of tribal legislatures, to pay for the distribution of educational materials on the Chippewa Indians' hunting and fishing rights and to increase the amount of Indian student assistance grants to $2,200 per year. The governor vetoed the package except for the bill addressing tribal court and tribal legislative proceedings.

Wyoming
One bill passed in Wyoming that continues the assignment of $500,000 from interest earned on funds in an oil and gas tax protest account to the Bureau of Indian Affairs school on the Wind River Reservation. Another bill addressing priority water rights on the Wind River Reservation failed to pass. One Native American currently serves in the Legislature.

APPENDIX

Summaries of enacted and pending state legislation dealing with Native American issues in 1991 are listed below.

Alaska

SB 283, Judiciary Committee
(Signed by governor 6-17-91) Extends until June 30, 1992, certain provisions of state law that govern the inheritance and transfer of stock in corporations organized under the Alaska Native Claims Settlement Act.

Arizona

HB 2243, Hanley et al.
(Signed by governor 5-24-91) Amends the authorizing statute of the Wastewater Management Authority of Arizona to give it the power to make loans or provide other financial assistance to finance wastewater treatment projects for Indian tribes. Loans to Indian tribes shall be secured by a lien on property, a guaranty, a bond or other enforceable security, but the law does not require tribes to waive any claim of sovereign immunity.

HB 2345, Aldridge
(Signed by governor 5-21-91) Relates to joint county development plans with cities, state agencies and Indian tribes. Among other provisions, this bill allows for agreements between any county and affected Indian tribes to jointly exercise powers relating to the means of applying county land use regulations and public facilities regulations.

SCM 1001, Henderson, et al.
(Adopted) Urges the president to instruct Congress to amend the American Indian Religious Freedom Act to protect the sacramental use of peyote.

SCR 1011, Henderson
(Adopted) Requests Congress and the president to erect a memorial honoring Native American Veterans.

SCR 1017, Committee on Rules
(Adopted) Requests Congress to ensure that the Indian Health Service maintain its current budget and service land in this state.

SCR 1019, Resnick, et al.
(Adopted) Requests Congress to pass legislation confirming the authority of tribal governments to maintain criminal jurisdiction over Indian members who are not enrolled in the tribe.

SB 1402, Henderson
(Signed by governor 5-17-91,) Provides that an Indian peace officer who meets the "qualifications and training standards adopted pursuant to section 41-1822," shall possess and exercise all law enforcement powers of state peace officers; Department of Public Safety certification no longer needed.

California

AB 12, Katz
(Sent to governor 8-27-91) States that California state policy will require that all Native American remains and associated grave artifacts be repatriated.

AB 240, Peace, et al.
(Sent to governor 9-16-91) Conference committee compromise bill calls for the California secretary for Environmental Protection to convene negotiations on request of a tribe considering a proposal to construct a hazardous waste or solid waste facility for the purpose of reaching a cooperative agreement for regulating the facility. The agreement must contain provisions that are functionally equivalent to those provided under applicable state law. Requirements are set forth for the approval and enforcement of such cooperative agreements.

AJR 10, Speier
(Pending) Memorializes the president and Congress to enact the Reproductive Health Equity Act to provide abortions to Native American women and federal employees, among others.

SB 518, Maddy
Requires a three-year study by the Department of Health Services to establish valid statistics for death rates of American Indians and improve the quality of such statistics.

Georgia

HB 457, Dover et al.
(Pending in House Committee on Game, Fish and Recreation, held over to 1992 session) Provides that the state not claim title to human remains and burial artifacts on state property, and authorizes the Department of Natural Resources to maintain cemetery and "burial grounds holding Native American remains" for retaining certain human remains and burial artifacts. Makes the possession of unlawfully removed human remains illegal but exempts appropriate state officials, medical personnel, coroners and "members of the Indian Burials Consultation Committee." Sets up permit process for activities that may disturb or adversely affect known burial grounds. Creates and establishes powers of the Indian Burials Consultation Committee.

Hawaii

HB 370, Apo
(Signed by governor 7-2-91) Appropriates funds to the Office of Hawaiian Affairs for repatriation of Native Hawaiian human remains and for assisting in the inventory, return and dignified reinterment of Native Hawaiian bones curated or stored.

HB 701, Kihano
(Signed by governor 7-2-91) Appropriates funds to the Office of Hawaiian Affairs.

HB 895, Kihano
(Signed by governor 7-3-91) Grants individual beneficiaries affected by the Hawaiian Home Lands Trust and the Native Hawaiian Public Trust the right to settle their individually affected controversies. Establishes the Hawaiian Home Lands Trust Individual Claims Review Panel to evaluate the merits of an individual beneficiary's claim; issue an advisory opinion regarding the claim; transmit reports to the governor and the Legislature, including a summary of each claim brought before the panel; and disburse any compensation awarded by the 1993 and 1994 Legislatures.

HB 1230, Haghio, et al.
(Signed by governor 7-3-91) Requires the Hawaiian Home Commission to ensure that sufficient water is reserved for the current and future use of native Hawaiian homesteaders on leased tracts.

HB 2100
(Adopted) Requires the Office of Hawaiian Affairs to be joined as a defendant in any quiet title action involving kuleana lands where an owner of the inheritable interest dies intestate or partially intestate, and the partial intestacy includes the kuleana land, provided there is or was a taker under the Uniform Probate Code. This requirement formally gives the Office of Hawaiian Affairs notice of such quiet title actions.

HCR 145, Baker et al.
(Adopted by Senate 4-26-91) Recognizes that Native Hawaiians are losing "legitimate land claims and rights associated with those claims." Asserts support for non-adversarial resolution of all "quiet title" actions involving Native Hawaiian land claims and proposes legislative action eliminating "adverse possession as a means to quiet title Native Hawaiian lands."

HR 154, Baker et al.
(Adopted by House 4-19-91) Same as HCR 145, relating to Native Hawaiian aboriginal land and title rights.

HR 156/HCR 147, Ihera
Recognizes the year 1993 as the 100th year since the overthrow of the independent nation of Hawaii and designate 1993 as a year of special reflection on the rights and dignities of the Native Hawaiians within Hawaiian and American societies and as a special time for Hawaii, not only for special reflection on Native Hawaiians, but for questioning the present and future role of people of every race who constitute the "Hawaiian society" today.

Idaho

HCR 17, Committee on State Affairs
(Adopted) Directs the Legislative Council to appoint a joint House-Senate, eight-member committee to review Indian affairs issues and address important issues of state-tribal concern. The Legislative Council will report to the 1992 session of the Legislature the findings and recommendations of the committee.

H 23, Black
(Signed by governor 3-29-91) Allows for the sale and purchase of steelhead trout from enrolled Indian fishermen lawfully exercising fishing rights.

H 258, Committee on Resources
(Signed by governor 4-2-91) Relates to the ratification of the Fort Hall Indian Water Rights Agreement of 1990, gives authorization for payment of filing fees, and provides for contingency if the agreement does not become effective.

S 1176, Committee on State Affairs
(Signed by governor) Permits the sacramental use of peyote in religious rites of certain bona fide Native American religious ceremonies on Indian reservations. This exemption amends the Uniform Controlled Substance Act.

Kansas

HB 2466, Judiciary Committee
(In House Committee on Judiciary, pending for 1992 session) Permits any recognized Indian nation to petition the Ssecretary of the Interior for retrocession of all or any part of the federal criminal jurisdiction delegated to the state over certain criminal matters that occur on Indian land. Sets forth requirements for tribal assumption of jurisdiction.

Maine

LD 1089, Cashman et al.
(Signed by governor 6-18-91) Expands the powers of the director of the Department of Natural Resources of the Penobscot Nation by providing the authority to delegate the usage of "gill nets" by the department's qualified staff for the purpose of scientific fisheries research and management.

LD 1522, Bailey et al.
(Adopted) Lowers license fees for tribes in Maine to run high-stakes games such as bingo (or beano) as a means of raising money for tribal operations. Increased the number of weekends gaming can be conducted from 18 to 27.

LD 1550, Cashman et al.
(In Joint Committee on Judiciary, pending for 1992 session) Recognizes that land ownership and land use are fundamentally different in the Penobscot Indian Territory than in other parts of the state. Gives the Penobscot Nation greater flexibility and power to manage land use within the Penobscot Indian Territory. Allows certain state review powers over the Penobscot Territory by the Maine Land Use Regulation Commission and provides for a mechanism for developing "remedial measures" in land use situations with adverse impacts. (Similar bill also pending for Passamaquoddy tribe.)

LD 1843
(Adopted) Extends reciprocity in certain judicial matters, i.e., arrest warrants, search, etc., to the Passamaquoddy and Penobscot tribal courts relative to the District Court. Also enacts employment preference for tribal members.

Massachusetts

H 2451, Cahir
(In House Ways and Means 3-14-91) Creates a public "housing authority" of each said tribe which will exercise necessary legal powers to carry out low-income housing projects for Indians of the Nimpuc, Mashpee and Gay Head Wampanoag Indian tribes. Tribal Councils of the respective tribes must declare a need for such authorities to function and shall be responsible for appointment and removal of members of such authorities. Non-member Indians of federally-recognized tribes are eligible for housing authority services.

H 2494, Cahir, et al.
Relates to hunting and fishing by Native Americans.

Michigan

HB 4498, Gagliardi
(In House Appropriations Committee, pending for 1991) Amends Act No. 174, to include federal tribally-controlled community colleges for tuition waivers for North American Indians that agree to accept state reimbursements.

SCR 246, Vaughn
(Adopted 6-27-91) Commemorates November 1991 as American Indian Heritage Month in Michigan.

Minnesota

HF 1125, Koppendrayer (same as S 893, Davis)
(Signed by governor 5-27-91) Enables Mille Lacs Chippewa Band to conduct law enforcement on original reservation, if certain requirements (tort liability, officer training) are met. Requires the band to enter into mutual aid cooperative agreements with the Mille Lacs County Sheriff.

Mississippi

HB 1142, Moody
(Signed by governor 3-20-91) Amends the membership of the "Dancing Rabbit Creek Treaty Advisory Committee" to also include a member appointed by the director of the Department of Wildlife, as well as a state senator and a state representative of the district which the treaty affects.

SB 3104, Gordon et al.
(Signed by governor 4-2-91) Appropriates funds to Department of Education for compensation to the Chickasaw cession counties for lands which they lost through sale by the state for FY 91.

Montana

HB 9, Connelly
(Signed by governor) Establishes priorities and appropriates money for cultural and aesthetic awards, several of which were awarded to organizations for Native American projects.

HB 125, Gervais et al.
(Signed by governor 5-16-91) Appropriates funds of $175,648 for the Commission on Higher Education to enhance American Indian achievement and requires a report on program accomplishments. The money must be used to improve the recruitment and retention of American Indians in higher education.

HB 131, Brooke
(Adopted) Provides for procedures for treatment of human skeletal remains discovered by ground-disturbing activities. Sets up a burial presentation board to administer procedures.

HB 348, Gervais et al.
(Signed by governor 3-26-91) Requires that imitation Indian arts or crafts be displayed near a sign indicating that the artifacts are imitations.

HB 407, Bradley et al.
(Signed by governor 4-8-91) Submits a constitutional amendment to the electorate to increase the membership of the Board of Regents from seven to eight and to require the appointment of one Native American member to the board.

HB 746, Russell et al.
(Signed by governor 5-16-91) Requires the state to erect a monument and flag circle at the Capitol to honor American Indians and sets up advisory committee to select designs. Private funds are to be used.

HB 819, Russell et al.
(Signed by governor 4-9-91) Promotes state-tribal cooperation in economic development and tourism through appointment of one Indian tribal representative to the Tourism Advisory Council and specific coordination by the Department of Commerce with Indian tribal governments.

HB 876, Wyatt
(Adopted) Revises and continues the "Montana Initiative for the Abatement of Mortality in Infants." Expands the project advisory council from seven to eight and requires one member to be an enrolled tribal member knowledgeable in Indian health services.

HB 882, Russell et al.
(Signed by governor 4-20-91) Requires that a state agency, engaging in or contracting for a state construction project on Indian reservations, give preference in hiring to qualified Indian residents.

HB 915, Cody
(Signed by governor 4-9-91) Extends the Uniform Criminal Extradition Act to Indian reservations within the state by amending "executive authority" to include a tribal chairman and amending "state" to include an Indian reservation within the state.

HB 1012, Elliot
(Signed by governor 4-27-91) Requires negotiations between state and tribal governments for collection of a cigarette sales tax from non-Indian purchasers for cigarettes sold on Indian reservations. Avoids imposing "dual taxation" through establishing revenue sharing between the state and a tribal government that has imposed a cigarette tax identical to the state's. Requires Committee on Indian Affairs to monitor negotiations, identify other unresolved state-tribal taxation issues and propose legislation.

HJR 9, Russell et al.
(Passed both House and Senate) Urges Congress to confirm tribal criminal jurisdiction over non-member Indians who commit crimes within the tribe's reservation. (Congress has adopted requested legislation.)

HJR, 16, Gervais et al.
(Passed both House and Senate) Indicates support for a change in the Department of Health and Human Services' regulation to allow Native American veterans the option of using contract health services instead of veteran's health services.

HJR 32, Russell et al.
(Passed both Senate and House) Urges recognition of the cultural contributions of the Native Americans and affirms the commitment to honoring Indian treaties and respecting sovereignty on Columbus Day, October 12, 1992, when the nation observes the Quintencentennial.

HJR 53, Stang et al.
(Passed both House and Senate) Requests that the Revenue Oversight Committee conduct an interim study of all aspects of federal, state, local and tribal taxation on Indian reservations in Montana and issue a report on the same to the 53rd Legislature.

HJR 56, Russell
(Adopted) Directs the Committee on Indian Affairs to conduct a study on disparities in the criminal sentencing of Native Americans and make recommendations for eliminating or reducing any disparities that exist.

SB 15, Gage
(Signed by governor 3-26-91) Exempts oil and gas royalties to individual Indians from the resource indemnity trust tax, and provides for retroactive applicability date.

SB 310, Yellowtail et al.
(Signed by governor 4-17-91) Allows contract physicians from urban Indian clinics to dispense drugs to qualified patients. The clinic may not stock or dispense any dangerous drug or controlled substance.

SB 428, Nathe et al.
(Signed by governor 5-20-91) Provides for negotiation of cooperative agreements between the state Department of Transportation and tribal governments for the allocation of motor fuel taxes to tribal governments that enact motor fuels taxes at rates that are identical to those imposed by the state. Purpose is to prevent dual taxation where possible. Sets up accounts for collection and distribution of the taxes.

SB 472, Mazurek
(Adopted) Ratifies the water rights compact between the state of Montana and the Northern Cheyenne Tribe.

SJR 10, Mazurek
(Adopted) Urges Congress to adopt legislation authorizing the Assiniboine and Sioux tribes of the Fort Peck Reservation to enter into water agreements for the delivery, use or transfer of water within or outside the reservation.

SJR 13, Jergeson
(Adopted) Urges Congress to amend the Nez Perce National Historical Parks legislation to extend the designation of sites to the Bear Paw Battlefield, Big Hole Battlefield, Fort Fizzle and Canyon Creek sites in Montana. Existing legislation limits the designation of sites under the park system to sites within the state of Idaho.

SJR 20, Yellowtail et al.
(Passed both House and Senate) Urges Montana congressional delegation to support legislation establishing a memorial at the Custer Battlefield National Monument to honor the Native Americans who fought at the Battle of the Little Big Horn, and to redesignate the area as the Little Big Horn National Monument.

Nebraska

LB 114, Schimek, et al.
(Signed by governor 6-5-91) Changes membership and terms on the Commission on Indian Affairs.

LB 195, Robinson et al.
(To Committee on Appropriations, pending until 1992 session) Appropriates funds for the Nebraska Indian Community College.

LB 201, Smith, et al.
(Placed on General File--first reading--as amended, pending for 1992 session) Authorizes the governor to negotiate a state-tribal compact on gambling as prescribed by federal law; provides a statement of public policy regarding the compact.

Nevada

AB 507, Committee on Taxation
(Signed by governor 6-10-91) Authorizes the governing body of an Indian reservation or colony to impose an excise tax on any products made from tobacco, other than cigarettes, which are sold on

the reservation, and prohibits the Department of Taxation from collecting the excise tax imposed by the state on any such tobacco products sold on the reservation.

ACR 70
Urges the Museum of the American Indian in New York City to return at least one of the 11 canvasback duck decoys in its collection that was excavated from a cave near Lovelock, Nevada, some 70 years ago. If returned to Nevada, the 2,000-year-old decoys would be put on permanent display in the Nevada State Museum in Carson City.

AJR 30
Commends Congress for passing Sections 8077 (b) and (c) of Public Law 101-511 which temporarily affirmed that tribes retain criminal misdemeanor jurisdiction over all Indians on Indian reservations. The measure also urges the Congress to make the provision permanent law.

New Jersey

S 3463, Zane
Establishes New Jersey Commission on Indian Affairs.

New Mexico

HB 595, Morgan
(Signed by governor 4-2-91) Appropriates $300,000 for the state to contract with the Institute of American Indian Arts to promote Indian arts and culture.

HB 742, Watchman
(Signed by governor 4-4-91) Allows the state treasurer, if authorized by joint powers agreement, to make short-term investments on behalf of Indian nations or tribes. Such investments are also available for local public bodies and are to be accounted for through a short-term investment fund in the state treasury.

SB 567, Pinto
(Signed by governor 4-2-91) Clarifies what are genuine Indian-made articles, makes other changes to Indian Arts and Crafts Sales Act, and allows district attorney to enforce provisions.

New York

A 1621, Sullivan et al.
(In Assembly Committee on Ways & Means) Allows eligible Native American students to continue to receive financial assistance when length of study is extended beyond traditional periods; appropriates funds.

A 3737, Behan et al.
(In Assembly Committee on Governmental Operations) Provides authority for the Shinnecock Tribe to enter into an agreement with a fire protection company in South Hampton to provide fire protection services, not to exceed $5,000 annually; appropriates funds.

A 4413, Committee on Budget Bill (same as S 2913)
(From Assembly Committee on Rules 7-2-91) Sets up independent Office of Indian Relations within executive department to facilitate coordination of state programs that provide services or assistance to Indian people and to take steps to improve relations between the state, Indian nations and tribes. The office shall make annual reports to the governor and the Legislature.

A 4740, Sanders et al.
(Passed Assembly Committee on Operations, now in Senate Investigations Committee) Article 8 of the "Indian Law" is repealed effective July 1, 1993. The law relates to the St. Regis Tribe.

A 4789, Hinchey et al.
(Third reading in Assembly Committee on Environmental Conservation, 3-26-91) Allows enrolled members of an Indian tribe located wholly within the state to fish, hunt and trap off the reservation.

A 5021, Nozzolio
(To Assembly Committee on Governmental Operations) Authorizes the state, without admitting liability, to hold harmless from damages property owners who have lost property interest as a result of a successful claim of an Indian tribe. Confers jurisdiction upon court of claims to hear, audit and determine such claims of owners whose property is adversely affected.

A 7468, Sanders, et al.
Establishes a process for reporting discovery of human remains and determining if they are of Native American origin.

A 8497, Committee on Rules (Same as S 6096)
Provides funds for the Seneca Nation lease settlement for Salamanca.

S 90, Sheffer
(In Senate Committee on Higher Education) Adds wording "in a manner respectful of the rights, beliefs and cultural values of Native Americans" to the charge of the Indian collection managers of the state museum.

S 761, Stafford (same as A 1513, Ortloff)
(Passed Senate, now in Assembly) Includes in the state highway system a portion of highway within the St. Regis Indian Reservation.

S 4080, Mendez et al.
(In Senate Committee on Investigations, Taxation and Government Operations) Changes the term "white people" to "non-Indians" in New York Indian law that allows Onondaga Indians owning land on the reservation to lease such land to non-Indians and that allows tribal leaders to lease lands to non-Indians to be used as stone quarries or for commercial purposes.

S 6263, Sheffer
Similar to A 7468.

North Carolina

H 350, Dial (same as S 308, which was postponed indefinitely)
(Ratified 5-15-91) Makes clarifications regarding the employment of the executive director of the Commission on Indian Affairs.

H 595, Dial
(Ratified 7-1-91) Adds an Indian member from the Meherrin Tribe to the Commission on Indian Affairs.

S 238, Carpenter
(Passed Senate, in House Committee on State Government) Adds representative of the Cherokee Central School System to the State Advisory Council on Indian Education.

S 531, Carpenter
(Passed the House 7-4-91) Provides membership for Cherokee Tribe on regional solid waste management authority and makes tribe eligible for loans from North Carolina Solid Waste Management Capital Projects Financing Authority.

S 831, Parnell
Conveys land in Regeson County to the North Carolina Indian Cultural Center.

North Dakota

HB 1007, Committee on Appropriations
(Signed by governor 4-16-91) Appropriates funds of $525,870 to the Indian Affairs Commission.

SB 2205, Committee on State and Federal Government
(Signed by governor 4-16-91) Requires the state Board of Higher Education to request funds and staff to administer an Indian scholarship program. Amends membership of the Indian Affairs Commission, and gives authority to the commission to encourage and propose agreements between the federal, state and local agencies and the several Indian tribal governments.

SB 2239, Committee on Human Services and Veteran's Affairs
(Signed by governor 4-4-91) Authorizes the Indian Affairs Commission to propose state-tribal agreements to perform any administrative service, and outlines public notice requirements and other specifications pertaining to such agreements.

SCR 4058, Jerome
(Passed House and Senate 4-8-91) Encourages Congress to enact legislation giving Indian tribes jurisdiction over criminal misdemeanors of all Indians on Indian reservations, and to review the Indian Civil Rights Act to ensure that the constitutional rights of all Indians are protected.

Oklahoma

HB 1409, Matlock
(Signed by governor 5-20-91) Establishes procedures for designation of officers (chairman and vice-chairman) of Joint Committee on State-Tribal Relations.

SB 130, Taylor et al
(Signed by governor 5-28-91) Makes appropriations of $198,533 for, states the purpose of, and provides for compensation of employees of the Oklahoma Indian Affairs Commission.

SCR 48, Haney, et al.
(Adopted 5-30-91) Commends Congress for temporarily affirming that tribes retain criminal misdemeanor jurisdiction over all Indians in Indian country.

Oregon

HB 3039, Edmunson et al.
(Signed by governor 6-24-91) Relates to the bona fide use of peyote in practice of religious beliefs. Allows for affirmative defense for the crime of manufacture, possession or delivery of peyote if used in this connection.

SB 501, Bradbury
(Signed by governor 5-9-91) Raises from 12 to 13 the number of members of the Commission on Indian Services, and clarifies participant list.

SB 5561, Office of Executive Department
(Became law without signature of governor, 4-11-91) Appropriates funds of $171,896 for biennial expensé to Commission on Indian Services.

Pennsylvania

SR 85, Porterfield
Declared August 1991 "Native American Awareness Week."

Rhode Island

H 6402, Metts, et al. (Same as S 887, Walton)
(In House Corporations Committee) Authorizes city and town Indian housing authorities and sets rules and guidelines for operations.

S 887, Walton et al. (same as H 6402)
(In House Corporations Committee) Authorizes Indian housing authorities.

South Dakota

HB 1402, Hagen, et al.
(Signed by governor 2-26-91) Provides for special motor vehicle license plates to identify tribes located within the state.

SB 262, Valandra
(Signed by governor 3-5-91) Gives authority to the State Department of Revenue to enter into compact agreements with Indian tribes for the collection of taxes and fees.

SCR 13, Shanard et al.
(Passed Senate and House) Declares the commitment of the Legislature to the reconciliation process between Indians and non-Indians.

Tennessee

SJR 255, Haynes
(Signed by governor 5-28-91) Designates October 1991 as Native American Indian Month.

Utah

HB 159, Borgeson
(Signed by governor 3-18-91) Repeals the task force on Indian affairs, among other provisions.

HB 394, Adams
(Signed by governor, effective April 29, 1991) Restructures the Division of Indian Affairs in the Department of Community and Economic Development and defines its purpose and responsibilities. Creates the Utah Indian Cooperative Council and establishes its membership, purpose and duties. Also creates the Utah Dineh Committee to direct expenditures of money received by the state for the benefit of Navajo Indians residing in San Juan County. Makes technical changes in Utah Code Annotated 1953.

Washington

HB 1145, Jacobsen et al.
(Pending in Senate Rules Committee for 1992 session) Revises criteria for selection of award recipients from the American Indian Endowed Scholarship Fund. Appropriates $50,000 funding when the Higher Education Coordinating Board can match those funds.

HB 1940, Scott, et al.
(Signed by governor, effective 5-10-91) Amends law that sets up a Foster Care Citizens' Review Board; authorizes a court to appoint the local Indian Child Welfare Advisory Committee to serve as the Citizen Review Board, if case concerns an Indian child.

West Virginia

HB 2205, Cerra
(Signed by governor 3-15-91) Requires governor to declare the week beginning the Sunday before Thanksgiving as Native American Indian Heritage Week.

Wisconsin

AB 258, Legislative Council
(Vetoed by governor) Creates a comprehensive program designed to improve employment opportunities and economic conditions on Indian reservations through the creation of new businesses and expansion of existing ones on or near Indian reservations. Among other provisions, the bill creates a joint American Indian tourism promotion program, a reservation-based business development financing program, and a technical assistance program. Also appropriates $50,000 to the state historical society to fund the presentation of school programs relating to the interaction of the Chippewa and European cultures in the St. Croix River area during the fur-trading period. Appropriates necessary funds.

AB 259, Legislative Council
(Vetoed by governor) Acknowledges that federally-recognized Indian tribes are sovereign entities and requires the governor to enter into negotiations with the tribes to develop protocols for the conduct of state-tribe relations. Agreements negotiated between the governor and the Indian tribes must be approved by the Legislature.

AB 260, Legislative Council
(Signed by governor 8-27-91) Requires Wisconsin courts to give "full faith and credit" to proceedings of all tribal courts and acts of tribal legislatures in Wisconsin. Requires the same of the state government by the tribal courts.

AB 261, Legislative Council
(Vetoed by governor) Directs the Department of Public Instruction to award a grant of $45,000 to the Great Lakes Indian Fish and Wildlife Commission to print and distribute educational materials regarding the Chippewa Indians' treaty-based off-reservation hunting, fishing and gathering rights.

AB 262, Legislative Council
(Vetoed by governor) Increases maximum amount of Indian student assistance grants to $2,200 per year.

Wyoming

SB 202, Vinich
(Signed by governor 2-27-91) Appropriates $500,000 from interest earned on funds in the protest account (from oil and gas severance taxes paid under protest on the Wind River Indian Reservation) to the Bureau of Indian Affairs school on the reservation.

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